

JASON I. SER

California State Bar No. 201816

FEDERAL DEFENDERS OF SAN DIEGO, INC.

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Attorneys for Mr. Smith

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
(HONORABLE LEO S. PAPAS)

UNITED STATES OF AMERICA,

Plaintiff,

v.

MANLEY SMITH (2),

Defendant.

Case No. 08mj1744 (LSP)

Date: June 17, 2008

Time: 9:30 a.m.

**NOTICE OF MOTION AND
MOTION TO:**

**REMOVE SURETY ADRIANA MARTINEZ
AND REPLACE WITH NEYSON GOMEZ**

TO: KAREN P. HEWITT, UNITED STATES ATTORNEY;
MARK CONOVER, ASSISTANT UNITED STATES ATTORNEY:

PLEASE TAKE NOTICE that on June 17, 2008, at 9:30 a.m., or as soon thereafter as counsel may be heard, the accused, Manley Smith, by and through his attorneys, Jason I. Ser and Federal Defenders of San Diego, Inc., will ask this Court to enter an order granting the motions outlined below.

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MOTIONS

Defendant, Mr. Smith, by and through his attorneys, Jason I. Ser and Federal Defenders of San Diego, Inc., pursuant to the United States Constitution, the Federal Rules of Criminal Procedure, and all other applicable statutes, case law and local rules, hereby moves this Court for an order to:

REMOVE SURETY ADRIANA MARTINEZ AND REPLACE WITH NEYSON GOMEZ

These motions are based upon the instant motions and notice of motions, the attached statement of facts and memorandum of points and authorities, and any and all other materials that may come to this Court's attention at or before the time of the hearing on these motions.

Respectfully submitted,

Dated: June 12, 2008

/s/ Jason I. Ser
JASON I. SER
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Smith
jason_ser@fd.org

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**STATEMENT OF FACTS AND POINTS AND
AUTHORITIES IN SUPPORT OF MOTIONS**

I.

STATEMENT OF FACTS

Mr. Smith recently was charged by way of complaint with violations of various provisions at 8 U.S.C. § 1324. He has pled not guilty to the charges. At a detention hearing on June 6, 2008, the Court granted bond and imposed conditions of release, including a \$20,000 bond secured by the signatures of two financially responsible adults.

On June 9, 2008, a bond packet was filed with the Court subsequent to approval by the prosecutor in this case, Mark Conover. One of the two sureties identified was Adriana Martinez. Mr. Smith now seeks to substitute Neyson Gomez as a surety in place of Ms. Martinez. Counsel for Mr. Smith forwarded the necessary bond paperwork signed by Mr. Gomez to Mr. Conover on June 11, 2008 for review.

Undersigned counsel spoke with Mr. Conover today, June 12, 2008, and learned that the government has no opposition to Mr. Gomez serving as a surety in this matter.¹

II.

MOTION TO REMOVE SURETY ADRIANA MARTINEZ AND REPLACE WITH NEYSON GOMEZ

In light of the government's non-opposition to Mr. Gomez serving as a surety in this matter, Mr. Smith requests an order from the Court removing surety Adriana Martinez and replacing her with the new surety - Neyson Gomez. Counsel files the instant motion at the direction of the Court's deputy. A proposed order also has been transmitted to the Court as directed.

III.

CONCLUSION

For these and all the foregoing reasons, the defendant, Mr. Smith, respectfully requests that this Court grant his motion and grant any and all other relief deemed proper and fair.

Respectfully submitted,

Dated: June 12, 2008

/s/ Jason I. Ser
JASON I. SER
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Smith

¹ Mr. Conover agreed to provide the original signed bond paperwork to the Court's deputy at the Clerk's window.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 08mj1744 (LSP)
v.)	
)	CERTIFICATE OF SERVICE
MANLEY SMITH (2),)	
)	
Defendant.)	
_____)	

Counsel for Defendant certifies that the foregoing pleading, is true and accurate to the best of his information and belief, and that a copy of the foregoing Defendant's Notice of Motion and Motion has been electronically served this day upon:

Mark Conover
Assistant U.S. Attorney
880 Front Street
San Diego, CA 92101

Dated: June 12, 2008

/s/ Jason I. Ser
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